

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN KEITH JONES,
Plaintiff,
v.
BERGELECTRIC, INC.,
Defendant.

No. 2:21-cv-0614-KJM-CKD PS

PRETRIAL SCHEDULING ORDER

READ THIS ORDER CAREFULLY. IT CONTAINS IMPORTANT DATES THAT THE COURT WILL STRICTLY ENFORCE AND WITH WHICH ALL COUNSEL AND PARTIES MUST COMPLY. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN THE IMPOSITION OF MONETARY AND ALL OTHER APPROPRIATE SANCTIONS, INCLUDING DISMISSAL OR AN ORDER OF JUDGMENT.

The Court conducted a pretrial scheduling conference on November 3, 2021.¹ The matter was submitted with a scheduling order to issue following resolution of the motion to dismiss filed by Associated Builders and Contractors Inc. Northern California Chapter Unilateral Apprenticeship Committee (“ABC”). That motion having been resolved, the Court issues the following pretrial scheduling order.

¹ This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(c) and Local Rule 302(c)(21).

1 NATURE OF THE CASE

2 Plaintiff brings claims under Title VII.

3 SERVICE OF PROCESS

4 Defendant Bergelectric Corp. (“Bergelectric”) has answered the complaint and ABC has
5 been dismissed from this case. No service of other parties is permitted except with leave of Court,
6 good cause having been shown.

7 JOINDER OF PARTIES/AMENDMENT OF PLEADINGS

8 No further joinder of parties or amendments to pleadings are permitted except with leave
9 of Court, good cause having been shown. A party seeking leave of court to amend pleadings or
10 join parties shall do so promptly.

11 JURISDICTION/VENUE

12 Jurisdiction and venue are undisputed and found to be proper.

13 INITIAL DISCLOSURES

14 To the extent the parties have not already done so, the parties shall exchange initial
15 disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) within 30 days of this order.

16 DISCOVERY DEADLINES, PROCEDURES FOR DISCOVERY DISPUTES

17 All non-expert discovery shall be completed² by **February 3, 2023**. Any discovery-
18 related motions must conform to the requirements of the Federal Rules of Civil Procedure and
19 this Court’s Local Rules, including Local Rule 251. Judge Delaney generally hears civil motions
20 on Wednesdays at 10:00 a.m.

21 Prior to filing any discovery-related motions, the parties are required to meet and confer in
22 good faith in an attempt to resolve their discovery disputes informally and without court
23 intervention. Such meet and confer shall take place in person, or at a minimum, via a telephonic
24 conference. The mere exchange of letters or e-mails alone is not sufficient. As part of their joint
25 statement related to a discovery motion submitted pursuant to Local Rule 251, the parties shall

26
27 ² “Completed” means (1) all discovery shall have been conducted so that all depositions have
28 been taken and (2) any disputes related to discovery shall have been resolved by appropriate order
if necessary and, where discovery has been ordered, the order has been complied with.

1 also specifically outline: (a) what meet-and-confer efforts were undertaken; (b) when and where
2 such discussions took place; (c) who was present; and (d) how the parties' disputes were
3 narrowed as a result of such discussions. Failure to comply with these requirements may result in
4 summary denial of any discovery motion.

5 The Court strongly encourages the use of informal telephonic discovery conferences with
6 the Court in lieu of formal discovery motion practice. The procedures and conditions for
7 requesting and conducting such an informal telephonic discovery conference are outlined in
8 Judge Delaney's "Order re Informal Telephonic Conferences re Discovery Disputes," posted on
9 the Court's website at <http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5055/>.
10 Additionally, subject to the Court's availability, the Court will also rule on disputes encountered
11 at oral depositions, so as to avoid such depositions from breaking down. In the course of the
12 deposition, the parties may contact Judge Delaney's courtroom deputy clerk at (916) 930-4004 to
13 inquire regarding Judge Delaney's availability. However, the parties are cautioned that these
14 informal procedures are not to be abused, and the Court may impose appropriate sanctions on an
15 offending party or parties, even in the course of informal discovery conferences.

16 EXPERT DISCLOSURES AND DISCOVERY

17 The parties shall disclose any expert witnesses in accordance with the specifications of
18 Federal Rule of Civil Procedure 26(a)(2) no later than **February 10, 2023**. Any rebuttal expert
19 disclosures shall be made in accordance with the specifications of Federal Rule of Civil
20 Procedure 26(a)(2). Expert disclosures shall be filed with the Court and served upon all other
21 parties. All expert discovery shall be completed (see fn. 3, above) by **March 17, 2023**. The same
22 procedures for fact-discovery disputes apply to expert-discovery disputes.

23 An expert witness not timely disclosed will not be permitted to testify unless the party
24 offering the witness demonstrates the following: (a) the necessity of the witness could not have
25 been reasonably anticipated at the time that the expert disclosures were due; (b) the Court and
26 opposing counsel were promptly notified upon discovery of the witness; and (c) the witness was
27 promptly proffered for deposition. Failure to provide the information required by Federal Rule of
28 Civil Procedure 26(a)(2) along with the expert disclosures may lead to preclusion of the expert's

1 testimony or other appropriate sanctions.

2 LAW AND MOTION

3 Except as to discovery-related matters, all law and motion, shall be completed (i.e. heard)
4 by **May 12, 2023**. Counsel and/or parties proceeding without counsel are cautioned to refer to the
5 Local Rules regarding the requirements for noticing such motions on the Court's regularly
6 scheduled law and motion calendar, including, but not limited to, Local Rule 230. Judge Delaney
7 generally hears civil motions on Wednesdays at 10:00 a.m. This paragraph does not preclude
8 motions for continuances, motions in limine related to trial, temporary restraining orders, or other
9 emergency applications, for which the Court may set a special briefing schedule, if necessary or
10 appropriate.

11 ALL PURELY LEGAL ISSUES ARE TO BE RESOLVED BY TIMELY PRETRIAL
12 MOTION. The purpose of law and motion is to narrow and refine the legal issues raised by the
13 case, as well as to dispose of those issues that are susceptible to resolution without trial by pretrial
14 motion. To accomplish that purpose, the parties need to identify and fully research the issues
15 presented by the case, then examine those issues in light of the evidence obtained through
16 discovery. If it appears to counsel after examining the legal issues and facts that an issue can be
17 resolved by pretrial motion, counsel are to file the appropriate motion consistent with the law and
18 motion cutoff set forth above. Conversely, motions in limine are procedural devices designed to
19 address the admissibility of evidence. THE COURT WILL LOOK WITH DISFAVOR UPON
20 SUBSTANTIVE MOTIONS PRESENTED UNDER THE GUISE OF MOTIONS IN LIMINE
21 AT THE TIME OF TRIAL.

22 FINAL PRETRIAL CONFERENCE/TRIAL SETTING

23 Plaintiff requests a jury trial. The final pretrial conference and jury trial will take place
24 before the assigned district judge, the Hon. Kimberly J. Mueller. The undersigned declines to set
25 final pretrial conference and trial dates at this juncture. Instead, the Court orders the parties to
26 submit a Notice of Trial Readiness on one of the following timelines:

- 27 A. After resolution of any pending dispositive motions, the parties are to submit the
28 Notice not later than thirty (30) days after receiving the district court's ruling(s) on the

1 last filed dispositive motion(s); or

2 B. If the parties do not intend to file dispositive motions, the parties are ordered to file the
3 Notice not later than one hundred twenty (120) days after the close of discovery and
4 the notice must include statements of intent to forgo the filing of dispositive motions.

5 In the Notice of Trial Readiness, the parties are to set forth the appropriateness of special
6 procedures, their estimated trial length, any request for a jury, their availability for trial, and if the
7 parties are willing to attend a settlement conference. The Notice shall estimate how many court
8 days each party will require to present its case, including opening statements and closing
9 arguments. The parties' estimate shall include time necessary for jury selection, time necessary to
10 finalize jury instructions and instruct the jury. After review of the parties' Joint Notice of Trial
11 Readiness, the court will issue an order setting forth dates for a final pretrial conference and trial.

12 OBJECTIONS

13 Any objections to this pretrial scheduling order shall be filed within seven (7) days.

14 SETTLEMENT CONFERENCE

15 Should the parties wish to conduct a settlement conference with a magistrate judge, they
16 are to contact the undersigned's courtroom deputy clerk to inquire as to the availability of another
17 magistrate judge for a settlement conference.

18 MODIFICATION OF THIS SCHEDULING ORDER

19 The parties are reminded that pursuant to Federal Rule of Civil Procedure 16(b)(4), this
20 order shall not be modified except by leave of court upon a showing of "good cause." See
21 Johnson v. Mammoth Recreations, Inc., 975 F.2d 604 (9th Cir. 1992). Mere agreement by the
22 parties pursuant to a stipulation does not constitute good cause. Nor does the unavailability of
23 witnesses or counsel, except in extraordinary circumstances, constitute good cause.

24 Dated: February 23, 2022

25 
26 CAROLYN K. DELANEY
27 UNITED STATES MAGISTRATE JUDGE